

<b>NO. X06 CV15 6050025 S</b>	:	<b>SUPERIOR COURT</b>
	:	
<b>DONNA L. SOTO, ADMINISTRATRIX OF THE ESTATE OF VICTORIA L. SOTO, ET AL</b>	:	<b>COMPLEX LITIGATION DOCKET</b>
	:	
<b>V.</b>	:	<b>AT WATERBURY</b>
	:	
<b>BUSHMASTER FIREARMS INTERNATIONAL, LLC, ET AL</b>	:	<b>SEPTEMBER 2, 2021</b>

**MOTION TO MODIFY PROTECTIVE ORDER TO PROTECT CHILDREN’S  
EDUCATIONAL RECORDS, EDUCATORS’ WORK RECORDS, AND TO DELETE  
OBSOLETE PROTECTIONS FOR REMINGTON’S PROPRIETARY INFORMATION**

The current protective order lists eight categories of protectable information. Seven of those eight categories are designed to protect Remington’s proprietary business information from disclosure; only one protects information disclosed by the plaintiffs.

The plaintiffs seek expansion of the categories of protected information in light of two recent subpoenas issued by Remington. One of those subpoenas directed the Newtown Public School District to release to Remington employment files of the four educators whose deaths are at issue here. In addition to employment files of the adult decedents, Remington also subpoenaed the School District to produce the kindergarten and first grade educational records of Jesse Lewis, Daniel Barden, Dylan Hockley, Benjamin Wheeler and Noah Pozner – the five schoolchildren for whom claims have brought in this case. There is no conceivable way that these children’s “application and admission paperwork, attendance records, transcripts, report cards, [and] disciplinary records,” to name only some of the things sought by the subpoena, will assist Remington in its defense, and the plaintiffs do not understand why Remington would invade the families’ privacy with such a request. Nonetheless, this personal and private information has been produced to Remington. The plaintiffs therefore move the Court to expand the categories of protected information to include private educational, employment and medical

records and information. A copy of the proposed, modified protective order is attached hereto as Exhibit A.

The plaintiffs also seek to delete protections for Remington's proprietary information that are now obsolete. With regard to documents that Remington had claimed as confidential, and that the plaintiffs had relied on and redacted from two recent motions for commission, Remington's counsel recently conceded: "Remington no longer has a proprietary interest in those documents because Remington no longer exists." Ex. B, 8/24/21 Tr. at 8:16-17. Counsel is right that Remington is no longer entitled to claim confidentiality for documents it has produced or will produce. Its past confidentiality designations are no longer well-founded, and it has no basis to make future designations. There is no basis to retain the seven categories that protect Remington's commercial information from disclosure in the protective order, and those categories should be deleted.

## **I. Relevant Procedural History**

On July 5, 2016, Remington sought a protective order. DN 199. The plaintiffs objected, because the public has a right to know what the plaintiffs learn about Remington's business practices in this case. DN 200. On August 1, 2016, Remington submitted a proposed protective order, DN 217, which the Court entered as its order, DN 217.10.

### **A. Confidential Information under the Protective Order**

The Protective Order applies to and protects Confidential Information. The current protective order defines the following information as "Confidential Information":

- (a) Personal identifying information as defined in Practice Book Section 4-7, and including party and witness residential addresses;
- (b) Proprietary market research conducted by or on behalf of a defendant concerning the product marketplace, product marketing, branding and promotion, and consumer satisfaction and demographics;
- (c) Proprietary marketing, branding, promotional and sales strategies;

- (d) The number of firearms manufactured or sold by a defendant by specific model designations;
- (e) Non-retail product pricing;
- (f) Firearm design drawings and engineering specifications;
- (g) Written agreements to which a defendant is a party containing non-disclosure or confidentiality provisions; and
- (h) The names, addresses and other personal identifying information of firearm purchasers disclosed on firearm sale transaction forms and other records required to be kept and maintained by federal firearms licensees under 27 CFR §§ 478.123, 478.124, 478.124a, 478.125 and 478.126a.

DN 217, 217.10, at ¶ 2. The Protective Order also provides that “[t]his Court shall have continuing jurisdiction to modify, amend, enforce, interpret or rescind this Protective Order...” *Id.* at ¶ 23; *see also Wendt v. Spyke, Inc.*, 2008 WL 732165, at \*3 (Conn. Super. Mar. 4, 2008) (identifying “good cause” as appropriate standard for evaluating proposed modification of protective order to allow disclosure of confidential information).

#### **B. Defense Discovery of Children and Educators’ Private Records**

In mid-July, the defense served a subpoena on the Newtown Public School District seeking: “Any and all educational records in your possession including but not limited to, application and admission paperwork, attendance records, transcripts, report cards, disciplinary records, correspondence and any and all other educational information and records pertaining to” each of the five first-graders whose Estates are plaintiffs in this case. Ex. C.

Remington served another subpoena seeking “Any and all employment and earnings records including, but not limited to, payroll ledgers, wage records, attendance records, medical and insurance records, notes, correspondence, application for employment, resume, letters of recommendation, family leave records, workers compensation records, job performance evaluations, accident or incident reports, termination records, independent contractor agreements, confidentiality agreements, and payment records concerning” for each of the four deceased educators. Ex. D.

On August 12, the defense served notices of deposition for each of the nine Estates. In these depositions, the defense will presumably question the families regarding these documents, as well as other previously-produced highly confidential medical records.

**C. Remington’s Inability to Maintain or Assert Claims of Confidentiality for Its Commercial Information**

In the recent August 24, 2021 status conference, the Court took up two motions to seal unredacted copies of motions for commission. These motions had been filed by the plaintiffs in order to comply with the provisions of the protective order requiring protection of Remington’s confidential information and had been pending for several weeks in order to give the requisite public notice.

Remington’s counsel advised the Court that unredacted copies of the motions could be filed and stated that Remington had materially changed position in regard to its confidentiality designations: “There has been a change in position. The documents we’ve previously designated as confidential are no longer considered confidential by the plan[] administrator of the bankruptcy estate.” Ex. B, 8/24/21 Tr. at 8:12-15. He continued, “Remington no longer has a proprietary interest in those documents because Remington no longer exists.” *Id.* at 8:16-17. In light of this representation, the Court denied the motions to seal. DN 335.10; DN 337.10.

**II. There Is Good Cause to Modify the Protective Order**

Due to recent developments in the case, the plaintiffs move the Court to modify the categories of information protected by the operative protective order. A proposed, modified protective order is attached as Exhibit A.

**A. Deletion of Protections for Remington’s Commercial Information**

Remington’s counsel has indicated that it no longer has a proprietary interest in anything. Remington appears to acknowledge that this is true for all past and future categories of

information that Remington has designated or will designate as confidential: “Remington no longer has a proprietary interest in those documents *because Remington no longer exists.*” Ex. B, 8/24/21 Tr. at 8:16-18 (emphasis supplied). Remington is correct: it cannot validly claim any business need to keep its disclosures confidential. This has been true for some time, since the bankruptcy plan was confirmed in March of this year.

However, the 2016 protective order still allows for the protection of Remington’s proprietary commercial information. Paragraph Two of the protective order defines the following information as “Confidential Information”:

- (a) Personal identifying information as defined in Practice Book Section 4-7, and including party and witness residential addresses;
- (b) Proprietary market research conducted by or on behalf of a defendant concerning the product marketplace, product marketing, branding and promotion, and consumer satisfaction and demographics;
- (c) Proprietary marketing, branding, promotional and sales strategies;
- (d) The number of firearms manufactured or sold by a defendant by specific model designations;
- (e) Non-retail product pricing;
- (f) Firearm design drawings and engineering specifications;
- (g) Written agreements to which a defendant is a party containing non-disclosure or confidentiality provisions; and
- (h) The names, addresses and other personal identifying information of firearm purchasers disclosed on firearm sale transaction forms and other records required to be kept and maintained by federal firearms licensees under 27 CFR §§ 478.123, 478.124, 478.124a, 478.125 and 478.126a.

DN 217, 217.10, at ¶ 2. Categories (b) through (h) purport to protect Remington’s proprietary, commercial interests, even though Remington admits it no longer has such interests.

It is very important that there be complete clarity concerning what documents are validly designated confidential and what are not. At present, there is no such clarity. Three examples illustrate the problems with the current situation. First, when the plaintiffs filed their motions for commission, they went through the laborious process of filing redacted versions of those motions, lodging unredacted versions of those motions, and filing motions to seal. The Court

then went through the process of scheduling those motions to seal for public hearing some weeks later. It was not until the public hearing that Remington advised the plaintiffs and the Court that it no longer had claims to confidentiality in the documents that had been redacted. Apparently, the plaintiffs did not need to file the redacted motion, lodge the unredacted motion, and file the motion to seal, and the Court did not need to go through the public notice process for the motions to seal. Second, some of Remington's August 10, 2021 production documents were produced with "Confidential Information – subject to protective order" designations. Counsel's August 24 statements concerning Remington's status applied equally on August 10, and these designations are invalid. Third, although the protective order at Paragraph 20 allows for withdrawal of confidentiality designations in writing, the plaintiffs have received no written withdrawal from Remington. (And even if the plaintiffs did receive such a written withdrawal, it is important to clarify the status of future productions as well.)

Modification of the protective order is necessary so that it is completely clear that Remington maintains no claims of confidentiality in the information it has disclosed and will disclose in discovery in this case; that the plaintiffs are free to file that information; and that the plaintiffs are under no obligation to withhold from the public the documents they have obtained and will obtain from Remington through this litigation. There is good cause for the Court to modify the protective order by deleting sub paragraphs 2(b)-(h). The Court should further modify Paragraph 2 by adding the following sentence: "Confidentiality designations made by Remington pursuant to now-deleted Paragraphs 2(b)-(h) are no longer valid; this Order no longer protects information designated by Remington; and the plaintiffs and any other signatories to Exhibit A ("Confidentiality Agreement") are released from any obligations that arose pursuant to this order and are under no obligation to keep such information confidential." *See* Ex. A, proposed

modified protective order.

**B. Addition of Protections for Private Records of Deceased Children and Educators**

In mid-July, the defense served a subpoena on the Newtown Public School District seeking: “Any and all educational records in your possession including but not limited to, application and admission paperwork, attendance records, transcripts, report cards, disciplinary records, correspondence and any and all other educational information and records pertaining to” each of the five first-graders. Ex. C. In addition to being extremely personally sensitive to the families of the deceased, this information is legally classified as confidential. *See* 20 U.S.C. § 1232g(b); *Palosz v. Town of Greenwich*, 2020 WL 5606854, at \*1-\*2 (Conn. Super. Aug. 25, 2020) (Genuario, J.) (discussing the provisions of FERPA, recognizing that it protects students’ “privacy interests,” and noting the “heightened standard” for disclosures of information protected by FERPA). We have never seen subpoenas directed to first-graders’ educational records, let alone children’s “attendance records,” or “disciplinary records.,” and we do not understand Remington’s purpose in obtaining these records.<sup>1</sup>

Remington also served a subpoena seeking “Any and all employment and earnings records including, but not limited to, payroll ledgers, wage records, attendance records, medical and insurance records, notes, correspondence, application for employment, resume, letters of recommendation, family leave records, workers compensation records, job performance evaluations, accident or incident reports, termination records, independent contractor agreements, confidentiality agreements, and payment records concerning” for each of the four

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<sup>1</sup> Nonetheless, the plaintiffs did not oppose the subpoena.

educators. Ex. D. Again, this information is confidential by law *See* Conn. Gen. Stat. § 31-128f, and the information sought is unusually extensive and invasive.

At present, this information is being kept confidential by agreement. In order to ensure maximum protection for this private information, however, there is good cause to add the following categories to Paragraph Two of the Protective Order:

- (i) Educational records;
- (j) Employment records;
- (k) Medical records;
- (l) Private, personal information.

### **III. Conclusion**

For all these reasons, the plaintiffs request that the Court enter the proposed modified protective order attached hereto as Exhibit A.

THE PLAINTIFFS,

By: /s/ Joshua D. Koskoff

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# **EXHIBIT A**

FBT-CV15-6048103-S

DONNA L. SOTO, ADMINISTRATRIX OF THE	:	SUPERIOR COURT
ESTATE OF VICTORIA L. SOTO et al.	:	
	:	JUDICIAL DISTRICT OF
Plaintiffs,	:	FAIRFIELD
	:	
v.	:	AT BRIDGEPORT
	:	
BUSHMASTER FIREARMS INTERNATIONAL,	:	AUGUST 31, 2021
LLC, et al.	:	
Defendants.	:	

**PROPOSED MODIFIED PROTECTIVE ORDER**

The following order (“Protective Order”) is entered pursuant to Practice Book Section 13-5(7) for the protection against public disclosure of certain proprietary trade secrets, confidential research, business strategies, and commercial information and other information affecting the privacy interests of non-parties, which are disclosed during discovery in this case. This Protective Order does not protect against public disclosure of information and documents filed with the Court, and does not contravene Practice Book Sections 7-4B, 7-4C and 11-20A. The Court finds that good cause exists for entry of this Protective Order.

**Definitions**

1. The following definitions apply to this Protective Order:
  - (a) The term “document” or “documents” has the same meaning as in Practice Book Section 13-1(c)(2).
  - (b) The term “Confidential Information” means information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, other persons who can obtain economic value from

its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Conn. Gen. Stats. § 35-51(d).

(c) The “Remington Defendants” means Remington Outdoors Company, Inc. and Remington Arms Company, LLC.

### **Confidential Information**

2. Information, documents and material in the following categories may be designated as Confidential Information under the terms of this Protective Order:

- (a) Personal identifying information as defined in Practice Book Section 4-7, and including party and witness residential addresses;
- ~~(b) Proprietary market research conducted by or on behalf of a defendant concerning the product marketplace, product marketing, branding and promotion, and consumer satisfaction and demographics;~~
- ~~(c) Proprietary marketing, branding, promotional and sales strategies;~~
- ~~(d) The number of firearms manufactured or sold by a defendant by specific model designations;~~
- ~~(e) Non-retail product pricing;~~
- ~~(f) Firearm design drawings and engineering specifications;~~
- ~~(g) Written agreements to which a defendant is a party containing non-disclosure or confidentiality provisions; and~~
- ~~(h) The names, addresses and other personal identifying information of firearm purchasers disclosed on firearm sale transaction forms and other records required to be kept and maintained by federal firearms licensees under 27 CFR §§ 478.123, 478.124, 478.124a, 478.125 and 478.126a.~~
- (i) Educational records;
- (j) Employment records;

(k) Medical records;

(l) Private, personal information.

Confidentiality designations made by Remington pursuant to now-deleted Paragraphs 2(b)-(h) are no longer valid; this Order no longer protects information designated by Remington; and the plaintiffs and any other signatories to Exhibit A (“Confidentiality Agreement”) are released from any obligations that arose pursuant to this Order and are under no obligation to keep such information confidential. The parties retain the right to move the Court to alter these categories, by adding materials which may be designated confidential or by deleting or narrowing such categories.

### **Purpose**

3. This Protective Order shall govern the use and dissemination of all information, documents or materials that are produced by the parties in this action and designated as Confidential Information in accordance with the terms of this Protective Order. This Protective Order is not intended to address or govern claims of work product or privilege that may be asserted by any of the parties, except as otherwise provided in this Protective Order.

### **Designation and Treatment**

4. Any party to this action who produces or supplies information, documents or other materials in this action (hereinafter the “Designating Party”) may designate as “Confidential Information” any information, document or material that falls within the categories set forth in paragraph 2 of this Protective Order. The designation of any information, document or material as “Confidential Information” shall represent a good faith determination by counsel so designating to the Court that there is good cause for the material so designated to receive the protections of this Order. The designation of “Confidential Information” shall be made by affixing on the

document or material containing such information, and upon each page so designated if practicable, words that in substance state, “**CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER.**” Any material, document or information for which it is impracticable to affix such a legend may be designated by written notice to that effect with a reasonable description of the material in question. Third parties may take advantage of the provisions of this Protective Order by indicating in writing to the requesting party their intent to comply with its procedures or they may seek separate protection from the Court.

5. At the option of the Designating Party, and to facilitate prompt discovery by allowing inspection or review before formal designation in the manner specified above, all information, material or documents produced in discovery shall be treated as Confidential Information pending inspection and copying. Subject to paragraph 18 of this Protective Order, copies of information, material, and documents selected for copying and reproduced for the inspecting party will lose their status as Confidential Information unless delivered with the necessary legend.

6. All persons having access to Confidential Information shall maintain it in a safe and secure manner to ensure compliance with this Protective Order. Any summary, extract, paraphrase, quotation, restatement, compilation, notes or copy containing Confidential Information, or any electronic image or database containing Confidential Information, shall be subject to the terms of this Protective Order to the same extent as the material or information from which such summary, extract, paraphrase, quotation, restatement, compilation, notes, copy, electronic image, or database is derived.

7. A Designating Party may in good faith redact non-responsive and/or irrelevant information from any document or material. However, unredacted copies of such documents shall

be maintained by the Designating Party. Designated attorneys for a Discovering Party and, if necessary, qualified Experts under paragraph 10(c) retained by them, shall have access to the unredacted versions of the documents but only for the purpose of ascertaining the appropriateness of any redactions.

8. This Protective Order shall not protect from disclosure information, documents or other material that (a) the Designating Party has not made reasonable efforts to keep confidential; (b) has been produced in any other action or proceeding without confidentiality protection, except inadvertently produced documents; (c) has been lawfully obtained by and from another source; or (d) has been denied confidential treatment in any other action or proceeding by a final order as to which all appeals and other opportunities to challenge have been exhausted or for which the time for appealing or otherwise challenging has expired.

#### **Limitations on Use**

9. Except to the extent expressly authorized by this Protective Order, Confidential Information shall not be used or disclosed for any purpose other than the preparation and trial of this case and in any appeal taken from any order or judgment herein.

#### **Limitations on Disclosure**

10. Except with the prior written consent of the Designating Party, or as expressly authorized by this Protective Order, no person receiving Confidential Information may disclose it to any other person. Nothing in this Protective Order, however, shall be deemed to restrict in any manner the Designating Party's use of its own Confidential Information or the Court's use of Confidential Information for any appropriate judicial purpose. Each party may disclose its own Confidential Information without regard to this Protective Order, unless otherwise prohibited from

doing so. Each party may waive previously asserted designations of Confidential with notice to all parties.

11. Access to Confidential Information shall be limited to the following categories of persons (“Qualified Persons”):

- (a) All counsel of record, including staff persons employed by such counsel;
- (b) The parties, but only to the extent reasonably necessary to the litigation of this case;
- (c) Any consultant, investigator or expert (collectively “Expert”) who is assisting in the preparation and/or trial of this action, but only to the extent reasonably necessary to enable such Expert to render such assistance;
- (d) Any deponent or witness who is reasonably believed to have been eligible to have access to Confidential Information by virtue of his or her employment or other affiliation with the Designating Party, and other non-party witnesses deposed in this case but only for the time reasonably necessary to question the witness;
- (e) Counsel who are presently representing clients in a case against the Remington Defendants, which arises out of the same or similar set of facts, transactions or occurrences, provided that before disclosing Confidential Information to such counsel, the Remington Defendants (1) must receive notice of the intention to disclose Confidential Information to such counsel; (2) must have the opportunity to move for a protective order in the case in which counsel is involved; and (3) a ruling on the motion for protective order must be issued.
- (f) Court reporters, videographers and outside vendors performing litigation support services for parties in this case; and

(g) The Court and its personnel.

12. Any person to whom Confidential Information may be disclosed pursuant to this Protective Order, except counsel of record identified in this Protective Order, staff persons employed by such counsel, this Court and its personnel, court reporters and videographers, shall first have an opportunity to read a copy of this Protective Order and shall agree in writing to the non-disclosure terms of the Confidentiality Acknowledgment annexed hereto as Exhibit A (“Confidentiality Acknowledgment”) before receiving any Confidential Information. Only counsel of record may disclose Confidential Information to another Qualified Person and they must receive the signed Confidentiality Acknowledgment before disclosing the Confidential Information to any Qualified Person other than other Counsel of Record, staff persons employed by such counsel, this Court and its personnel, court reporters and videographers. Counsel for the party obtaining a person’s signature on the Confidentiality Acknowledgment shall retain the original signed acknowledgment until such time as the identity of the signatory is disclosed or until good cause for earlier disclosure of the acknowledgment is shown. Any non-party witness who is being deposed in this case and who refuses to sign Exhibit A may be shown Confidential Information but only for the time reasonably necessary to question the witness, provided that counsel, in good faith believes, that such disclosure is reasonably necessary to the prosecution or defense of the case.

13. If a party or other person receiving Confidential Information pursuant to this Protective Order, except the Court and its personnel, thereafter receives a subpoena or order to produce such information in any other action or proceeding before any other court or agency, such party or person shall, if there are fewer than ten (10) days to comply, immediately, if possible, or within two (2) days if not, or if there are more than ten (10) days, at least seven (7) court days prior

to the due date of compliance, notify the Designating Party of the pendency of the subpoena, public records request or order in writing. To give the Designating Party an opportunity to obtain such relief, the party or person from whom the information is sought shall not make the disclosure before the actual due date of compliance set forth in the subpoena or order.

**Depositions Involving Confidential Information**

14. Depositions involving Confidential Information shall be treated, as follows:

(a) Portions of a deposition or depositions in their entirety may be designated Confidential Information by counsel for the deponent or the Designating Party, with respect to documents or information that it has produced, by requesting such treatment on the record at the deposition or in writing no later than thirty (30) days after the date of the deposition.

(b) This Protective Order shall permit temporary designation of an entire transcript as Confidential Information where less than all of the testimony in that transcript would fall into those categories, subject to the following procedure:

(i) The court reporter shall include on the cover page a clear indication that the deposition has been so designated.

(ii) Within thirty (30) days of receipt of the final, unsigned deposition transcript by counsel for the Designating Party, such counsel shall advise opposing counsel and the court reporter of the pages, lines and exhibits (if such exhibits are not otherwise so designated) in which Confidential Information appears. The court reporter shall supplement the transcript to indicate the designations. Failure to particularize a designation to opposing counsel within the allotted time shall result in the loss of any designation and shall entitle recipients of the deposition to treat the transcript as non-confidential.

(iii) If a party objects to a page, line, and exhibit designation made pursuant to paragraph 13(b)(ii) of this Order, the party may make an objection using the procedure provided in paragraph 17 of this Order and the procedures of paragraph 17 shall apply to resolution of the objection. The designations shall remain effective until and unless an objection is made and finally resolved.

15. No one may attend, or review the transcripts of, the portions of any depositions at which Confidential Information is shown or discussed, other than persons authorized to receive access to Confidential Information.

#### **Filing or Use of Confidential Information as Evidence**

16. No party shall provide any Confidential Information or information derived therefrom to the Court absent a good faith belief that such information is necessary to the resolution of a contested issue. Confidential Information or information derived therefrom shall be lodged with the Court under Practice Book Sections 7-4B and 7-4C. After Confidential Information is lodged with the Court pursuant to Practice Book Sections 7-4B and 7-4C, the designating party shall promptly file an appropriate motion under Practice Book Section 11-20A requesting that the information be filed under seal. No Confidential Information or information derived therefrom shall be filed with the Court until such time that the Court has ruled on the designating party's motion under Practice Book Section 11-20A.

#### **Objections to Designations**

17. Any party may, not later than sixty (60) days prior to the trial of this case, object to a designation by notifying the Designating Party in writing of that objection and specifying the designated material to which the objection is made. The parties shall confer within fifteen (15) days of service of any written objection. If the objection is not resolved, the Designating Party

shall, within fifteen (15) days of the conference, file and serve a motion to resolve the dispute and shall bear the burden of proof on the issue. If no such motion is filed within the stated time period, the material shall cease to be treated as Confidential. If a motion is filed, information subject to dispute shall be treated consistently with its designation until further order of the Court. With respect to any material which is re-designated or ceases to be subject to the protection of this Protective Order, the Designating Party shall, at its expense, provide to each party which so requests additional copies thereof from which all confidentiality legends affixed hereunder have been adjusted to reflect the re-designation or removed as appropriate.

#### **Inadvertent Waiver**

18. Inadvertent failure to designate any information pursuant to this Protective Order shall not constitute a waiver of any otherwise valid claim for protection, so long as such claim is asserted within fifteen (30) days of the discovery of the inadvertent failure. At such time, arrangements shall be made for the Designating Party to substitute properly labeled copies. However, until the receiving party is notified that the information is designated as Confidential Information, the receiving parties shall be entitled to treat the material as non-confidential.

19. In the interest of expediting discovery in these proceedings and avoiding unnecessary costs: (1) inadvertent disclosure in this litigation of privileged information and/or work product shall not constitute a waiver of any otherwise valid claim of privilege, immunity, or other protection; and (2) failure to assert a privilege and/or work product in this litigation as to one document or communication shall not be deemed to constitute a waiver of the privilege, immunity, or protection as to any other document or communication allegedly so protected, even involving the same subject matter. In the case of inadvertently produced privileged and/or work product documents, upon request of the Producing Party, the documents together with all copies thereof

and any notes made therefrom shall be returned forthwith to the party claiming privilege and/or work product immunity. Any party may, within five (5) court days after notification of inadvertent disclosure under this Paragraph, object to the claim of inadvertence by notifying the Designating/Producing Party in writing of that objection and specifying the designated/produced material to which the objection is made. The parties shall confer within fifteen (15) days of service of any written objection. If the objection is not resolved, the Designating Party shall, within fifteen (15) days of the conference, file and serve a motion to resolve the dispute and shall bear the burden of proof on the issue. If a motion is filed, information subject to dispute shall be treated consistently with the Designating/Producing Party's most recent designation until further order of the Court.

#### **Non-Termination**

20. Any information or documents designated as Confidential Information shall continue to be treated as such until such time as (a) the Designating Party expressly agrees in writing that the information, documents, testimony or other materials in question are no longer Confidential or (b) there is a finding by the Court that the information or documents are not the proper subject of protection under this Protective Order. Issues regarding the protection of Confidential Information during trial may be presented to the Court as each party deems appropriate.

21. The obligations and protections imposed by this Protective Order, as to any documents not admitted into evidence at trial unless sealed by the Court, shall continue beyond the conclusion of this action, including any appeals, or until the Court orders otherwise. The Court

defers consideration of destruction, return and deletion of Confidential Information at the conclusion of this case.

**Public Health and Safety**

22. Nothing in this Order is intended to prevent any party from raising with the Court any concern that the non-disclosure of Confidential Information may have a possible adverse effect upon the general public health or safety, or the administration or operation of government or public office.

**Continuing Jurisdiction**

23. Any party may petition the Court for a modification of the terms of this Protective Order for good cause shown, after notice and opportunity for a hearing. This Court shall have continuing jurisdiction to modify, amend, enforce, interpret or rescind this Protective Order notwithstanding the termination of this action.

Dated: Waterbury, Connecticut

\_\_\_\_\_, 2021

\_\_\_\_\_  
Hon. Barbara Bellis

# **EXHIBIT A**

DONNA L. SOTO, ADMINISTRATRIX OF THE	:	SUPERIOR COURT
ESTATE OF VICTORIA L. SOTO et al.	:	
	:	JUDICIAL DISTRICT OF
Plaintiffs,	:	FAIRFIELD
	:	
v.	:	AT BRIDGEPORT
	:	
BUSHMASTER FIREARMS INTERNATIONAL,	:	
LLC, et al.	:	
Defendants.	:	

**CONFIDENTIALITY AGREEMENT**

The undersigned hereby acknowledges and agrees:

1. I am aware that a Protective Order has been entered in the above-captioned action. I have had the opportunity to read the Protective Order and understand that my willful disclosure of Confidential Information may constitute contempt of court. I consent to the jurisdiction of this Court for enforcement of the terms of this Protective Order.
2. I will not disclose copies of any Confidential Information to any other person, and will not discuss any Confidential Information with any person except those persons described in the Protective Order under the procedures therein specified.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Dated: \_\_\_\_\_

# **EXHIBIT B**

NO: X06 UWY CV15-6050025-S : SUPERIOR COURT  
DONNA L. SOTO, ADMINISTRATRIX: COMPLEX LITIGATION DOCKET  
OF THE ESTATE OF VICTORIA L.  
SOTO, ET AL  
V : AT WATERBURY  
BUSHMASTER FIREARMS  
INTERNATIONAL, LLC, ET AL : AUGUST 24, 2021

B E F O R E:  
THE HONORABLE BARBARA N. BELLIS,  
Judge

A P P E A R A N C E S:

Representing the Plaintiffs:

ATTORNEY JOSHUA D. KOSKOFF  
ATTORNEY ALINOR C. STERLING  
ATTORNEY JEFFREY W. WISNER  
ATTORNEY LORENA GULLOTTA  
Koskoff Koskoff & Bieder, PC  
350 Fairfield Avenue  
Bridgeport, Connecticut 06604

ATTORNEY H. CHRISTOPHER BOEHNING (pro hac vice)  
ATTORNEY JACOBUS J. SCHUTTE (pro hac vice)  
Paul Weiss Rifkind Wharton & Garrison, LLP  
1285 Avenue of the Americas  
New York, New York 10019-6064

Representing the Defendants:

ATTORNEY JAMES H. ROTONDO  
ATTORNEY JEFFREY P. MUELLER  
Day Pitney, LLP  
242 Trumbull Street  
Hartford, Connecticut 06103

ATTORNEY JAMES B. VOGTS (pro hac vice)  
Swanson Martin & Bell, LLP  
330 North Wabash, #3300  
Chicago, Illinois 60611

Recorded and Transcribed By:  
Patricia Sabol  
Court Monitor  
400 Grand Street  
Waterbury, Connecticut 06702

1 THE COURT: All right. Doesn't that take care of  
2 it then?

3 ATTY. STERLING: Your Honor, for the record,  
4 Attorney Sterling. Yes, it does. And I guess the  
5 follow-up question I would have for counsel, is this  
6 going to be a through position? Do we need to keep  
7 filing motions for seal, you know, or is it perhaps  
8 that given the bankruptcy, there's a change in  
9 position regarding the defendant entity's interest in  
10 confidentiality?

11 ATTY. VOGTS: This is James Vogts. Attorney  
12 Sterling nailed it. There has been a change in  
13 position. The documents we've previously designated  
14 as confidential are no longer considered confidential  
15 by the planned administrator of the bankruptcy estate.  
16 Remington no longer has a proprietary interest in  
17 those documents because Remington no longer exists.

18 THE COURT: All right. So does that also apply  
19 to the motion to seal that Attorney Ferraro told me  
20 about, the new one that he was looking to get  
21 docketed?

22 ATTY. VOGTS: Yes, your Honor.

23 THE COURT: Okay. So, Attorney Ferraro, one  
24 less -- you can take that off your plate.

25 Okay. All right. So I just got the agenda, I'm  
26 sorry to say. Just give me one minute to pull it up.

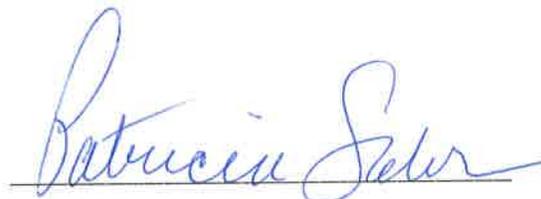
27 So that actually takes care of item numbers one

NO: X06 UWY CV15-6050025-S : SUPERIOR COURT  
DONNA L. SOTO, ADMINISTRATRIX: COMPLEX LITIGATION DOCKET  
OF THE ESTATE OF VICTORIA L.  
SOTO, ET AL  
V : AT WATERBURY  
BUSHMASTER FIREARMS  
INTERNATIONAL, LLC, ET AL : AUGUST 24, 2021

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the stenographic notes of the above-referenced case, heard in the Superior Court, Complex Litigation Docket, at Waterbury, Connecticut, before the Honorable Barbara N. Bellis, Judge, on the 24th day of August, 2021.

Dated this 25th day of August, 2021, in Waterbury, Connecticut.

A handwritten signature in blue ink, reading "Patricia Sabol", is written over a horizontal line.

Patricia Sabol

Court Monitor

**EXHIBIT C**  
(Personal Identifying  
Information has been  
Redacted)

SUBPOENA DUCES TECUM

JUDICIAL DISTRICT OF WATERBURY

SUBPOENA DUCES TECUM

CASE NO. X06-UWY-CV15-6050025-S

To Custodian of Records  
Newtown Public School District  
3 Primrose Street  
Newtown, CT 06470

BY AUTHORITY OF THE STATE OF CONNECTICUT, You are hereby commanded to appear  
at a Deposition

to be held at Day Pitney LLP, 195 Church Street, 15<sup>th</sup> Floor, New Haven, CT 06510  
on the 6<sup>th</sup> day of August A.D. 2021, at 10:30 a.m. o'clock  
in the afternoon, then and there to testify what you know in a certain case therein pending, wherein

Donna L. Soto, Administratrix of the Estate of Victoria L. Soto, Deceased, et al. is Plaintiff and

Bushmaster Firearms International, LLC, et al. is Defendant

or to such day thereafter and within 60 days hereof on which said action is legally to be tried. **AND YOU ARE FURTHER COMMANDED to BRING WITH YOU AND PRODUCE at the same time and place:**

A) Please see Schedule A attached hereto.

***PLEASE CONTACT ATTORNEY JAMES ROTONDO AT 860-275-0197 UPON RECEIPT OF THIS SUBPOENA SHOULD YOU HAVE ANY QUESTIONS.***

HEREOF FAIL NOT, UNDER PENALTY OF THE LAW IN THAT CASE PROVIDED.

Dated at Hartford, CT this 12<sup>th</sup> day of July, 2021  
To any proper officer or indifferent person to serve and return.



Commissioner of the Superior Court-Clerk of the Court

James H. Rotondo

*County, ss.*

*Conn.*

The and by virtue hereof, I read the within Subpoena in the presence and hearing of each of the within named witnesses:

and paid, tendered each the fees allowed by law.

Attest:

Witness Fees  
Service  
Travel  
Endorsement

*Deputy Sheriff*

## SCHEDULE A

Any and all educational records in your possession including but not limited to, application and admission paperwork, attendance records, transcripts, report cards, disciplinary records, correspondence and any and all other educational information and records pertaining to the above individual regarding:

- a. Daniel G. Barden [REDACTED]
- b. Dylan Hockley [REDACTED]
- c. Jesse McCord Lewis
- d. Noah Pozner
- e. Benjamin Wheeler [REDACTED]

This request includes all documents whether hard copy or electronic.

**EXHIBIT D**  
(Personal Identifying  
Information has been  
Redacted)

SUBPOENA DUCES TECUM

JUDICIAL DISTRICT OF WATERBURY

SUBPOENA DUCES TECUM

CASE NO. X06-UWY-CV15-6050025-S

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Bushmaster Firearms International, LLC, et al. is Defendant

or to such day thereafter and within 60 days hereof on which said action is legally to be tried. **AND YOU ARE FURTHER COMMANDED to BRING WITH YOU AND PRODUCE at the same time and place:**

A) Please see Schedule A attached hereto.

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and paid, tendered each the fees allowed by law.

Attest:

Witness Fees  
Service  
Travel  
Endorsement

*Deputy Sheriff*

## SCHEDULE A

Any and all employment and earnings records including, but not limited to, payroll ledgers, wage records, attendance records, medical and insurance records, notes, correspondence, application for employment, resume, letters of recommendation, family leave records, workers compensation records, job performance evaluations, accident or incident reports, termination records, independent contractor agreements, confidentiality agreements, and payment records concerning:

- a. Rachel Marie D'Avino [REDACTED]
- b. Lauren Rousseau [REDACTED]
- c. Mary Joy Sherlach [REDACTED] and
- d. Victoria Soto

This request includes all documents whether hard copy or electronic.